

## BILL ANALYSIS

Senate Research Center

S.B. 31  
By: Lucio  
Economic Development  
5-29-95  
Enrolled

### BACKGROUND

The criteria and procedures for assessing sanctions against frivolous lawsuits in Texas are contained in Rule 13 of the Texas Rules of Civil Procedure. Some defendants argue that Rule 13 does not effectively address the problem of lawsuits that are filed without merit only to coerce the defendant into an early settlement.

### PURPOSE

As enrolled, S.B. 31 provides for the assessment of attorney's fees, costs, and damages for certain frivolous lawsuits and defenses.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2A, Civil Practice and Remedies Code, by adding Chapter 10, as follows:

#### CHAPTER 10. SANCTIONS FOR FRIVOLOUS PLEADINGS AND MOTIONS

Sec. 10.001. SIGNING OF PLEADINGS AND MOTIONS. Provides that the signing of a pleading or motion as required by the Texas Rules of Civil Procedure constitutes a certificate by the signatory that to the signatory's best knowledge, information, and belief, formed after reasonable inquiry that certain circumstances exist.

Sec. 10.002. MOTION FOR SANCTIONS. (a) Authorizes a party to make a motion for sanctions, describing the specific conduct violating Section 10.001.

(b) Authorizes the court to enter an order describing the specific conduct that appears to violate Section 10.001 and direct the alleged violator to show cause why the conduct has not violated that section.

(c) Authorizes the court to award to a party prevailing on a motion under this section the reasonable expenses and attorney's fees incurred in presenting or opposing the motion, and if no due diligence is shown the court may award to the prevailing party all costs for inconvenience, harassment, and out-of-pocket expenses incurred or caused by the subject litigation.

Sec. 10.003. NOTICE AND OPPORTUNITY TO RESPOND. Requires the court to provide a party who is the subject of a motion for sanctions under Section 10.002 notice of the allegations and a reasonable opportunity to respond to the allegations.

Sec. 10.004. VIOLATION; SANCTION. (a) Authorizes a court that determines that a person has signed a pleading or motion in violation of Section 10.001 to impose a sanction on the person, a party represented by the person, or both.

(b) Requires the sanction to be limited to what is sufficient to deter repetition of the conduct or comparable conduct by others similarly situated.

(c) Sets forth provisions a sanction may include.

(d) Prohibits the court from awarding monetary sanctions against a represented party for a violation of Section 10.001(2).

(e) Prohibits the court from awarding monetary sanctions on its own initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party or the party's attorney who is to be sanctioned.

(f) Prohibits the filing of a general denial under Rule 92, Texas Rules of Civil Procedure, from being deemed a violation of this chapter.

Sec. 10.005. ORDER. Requires a court to describe in an order imposing a sanction under this chapter the conduct the court has determined violated Section 10.001 and explain the basis for the sanction imposed.

Sec. 10.006. CONFLICT. Prohibits the supreme court from amending or adopting rules in conflict with this chapter.

SECTION 2.   Effective date: September 1, 1995.  
              Makes application of this Act prospective.

SECTION 3.   Emergency clause.